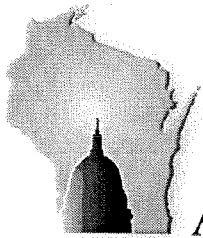


VFF-EMT 1

**Relating to the Length of Service
Award Program**

**60-day extension request by the
Volunteer Fire Fighter and
Emergency Medical Technician
Service Award Board**



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT McCALLUM
GOVERNOR
GEORGE LIGHTBOURN
SECRETARY

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April 1, 2002

Senator Judith Robson, Co-Chair
Joint Committee for Review of
Administrative Rules
15 South, State Capitol
Madison, WI 53702

Representative Glenn Grothman, Co-Chair
Joint Committee for Review of
Administrative Rules
15 North, State Capitol
Madison, WI 53702

RE: Clearinghouse Rule No. 01-123 – Chapter VFF-EMT 1
Second Request for Extension

Dear Senator Robson and Representative Grothman:

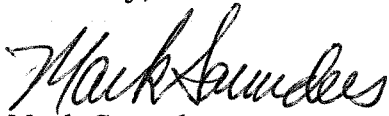
I am writing on behalf of the Volunteer Fire Fighter and Emergency Medical Technician Service Award Board (“Board”) to request a second extension of the effective period of the above-referenced emergency rule pursuant to s. 227.24 (2)(a) of the Wisconsin Statutes. This rule was originally scheduled to expire on February 18, 2002. Acting upon an earlier request from the Board, the Joint Committee for Review of Administrative Rules extended the rule’s effective period for 60 days. However, because of some delay in determining final changes to the permanent rule, it was not forwarded to the Legislature until late March. Accordingly, a further extension of the emergency rule is necessary.

The JCRAR’s original action extended the expiration date to April 18, 2002. Assuming no objections from either of the legislative committees, the earliest date their respective passive reviews will be complete is April 26. Depending on the date the Revisor of Statutes Office receives and publishes the rule, the permanent rule will likely not be effective until June 1. A 60-day extension will keep the emergency rule effective through June 18, 2002.

April 1, 2002
Page 2

Thank you for your consideration of this request. If you have any questions please contact me at (608) 266-9810.

Sincerely,

A handwritten signature in cursive script that reads "Mark Saunders".

Mark Saunders
Deputy Legal Counsel

cc: Robert Seitz

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board – Creating VFF-EMT01
(Section 10 (3) (a), 1999 Wis. Act 105.)

This rule shall take effect upon publication in the official state newspaper pursuant to s. 227.24, Stats.

TEXT OF RULE:

SECTION 1: VFF-EMT 1 is created to read.

VFF-EMT 1

Volunteer Fire Fighter-Emergency Medical Technician Service Award Board Administrative Rule

1.03 Authority. Sections 16.004 (1), and 16.25(2), (3) and (4), Stats., authorize the Board to promulgate rules for establishing a length of service award program for volunteer fire fighters and emergency medical technicians.

1.02 Purpose. The purposes are to establish a program for length of service awards to VFF-EMT participants, which provides services to municipalities that operate volunteer fire departments or volunteer fire companies, or authorize emergency medical and technical services, and to establish qualifications and requirements for private sector individuals and organizations eligible to provide administrative and investment services for length of service award programs.

1.03 Definitions. In this chapter:

- (1) "Account" means a statement or record of all state and municipal length of service award contributions, including all applicable earnings, redistributions and deductions made on behalf of a VFF-EMT maintained by a program administrator.
- (2) "Beneficiary" means a person, trust or entity designated by an eligible VFF-EMT to receive benefits under a program.
- (3) "Board" has the meaning specified in s. 16.25 (1) (a), Stats.
- (4) "Credit" means the recognition of the fulfillment of the requirements for performing service toward a length of service award under the program.
- (5) "Emergency medical services" means medical care that is rendered to a sick, disabled or injured individual based on signs, symptoms or complaints, prior to the individual's hospitalization or while transporting the individual between health care facilities and that is limited to the use of the knowledge, skills and techniques received from training required under s. 146.50, Stats., and chs. HFS 110, 111, 112 or 113, as a condition for being issued an emergency medical technician license.
- (6) "Fire fighting services" means the organized suppression and prevention of fires.
- (7) "Fiscal year" means the period beginning on July 1 and ending on June 30.
- (8) "Length of service award program" or "program" means a program as described in section 457 of the internal revenue code that is implemented and administered by a program administrator approved by the board, and that to the extent allowed by federal law, provides a tax-deferred benefit to an eligible VFF-EMT consistent with the internal revenue code, s.16.25 Stats., and this chapter.
- (9) "Municipality" has the meaning specified in s. 16.25(1)(c), Stats.
- (10) "Net asset value" means the value of an individual length of service award determined by adding the municipal contributions and the state matching contributions, all earnings thereon, and any redistributions as provided in s. VFF-EMT 1.08, less investment expenses.
- (11) "Participating municipality" means a municipality that meets the program eligibility requirements of s. VFF-EMT 1.04 and elects to participate in a program.
- (12) "Prior service" means the service performed by a VFF-EMT for a participating municipality before that municipality began participation in a program.
- (13) "Program administrator" means a non-governmental individual or organization in the private sector that provides and administers a program.
- (14) "Service" includes fire fighting, emergency medical, or rescue services provided to a participating municipality by a volunteer fire fighter or volunteer emergency medical technician.
- (15) "State" means the state of Wisconsin.
- (16) "Volunteer emergency medical technician" or "EMT" means all emergency medical service personnel, including first responders, licensed or certified under s. 146.50, Stats.
- (17) "Volunteer fire company" means one that is organized under s. 213.05, Stats.
- (18) "Volunteer fire department" has the meaning specified in s. 213.08, Stats.
- (19) "Volunteer fire fighter" or "VFF" means a person that renders fire fighting or rescue services to a participating municipality and does not receive compensation under a contract of employment as a fire fighter.
- (20) "VFF-EMT" means a volunteer fire fighter or emergency medical technician.

1.04 Participating Municipalities. (1) A municipality that operates a volunteer fire department or that contracts with a volunteer fire company organized under Ch. 181 or 213, or that authorizes volunteer emergency medical technicians to provide emergency medical services, is eligible to become a participating municipality.

(2) An eligible municipality may participate in a program by adopting a resolution or ordinance stating that it shall abide by all statutes, administrative rules, regulations and procedures pertaining to a length of service award program. The adopted resolution or ordinance shall be on a form approved by the board and provided to the program administrator or the board upon request.

(3) Each participating municipality shall develop standards for determining the service required of the volunteer fire fighters and emergency medical technicians it sponsors under the program in order to qualify for an annual contribution.

(4) Municipalities that jointly operate or contract with a volunteer fire department or a volunteer fire company or that authorize volunteer emergency medical technicians, may operate as a single participating municipality under the program, and may be required to do so by the program administrator.

(5)(a) A VFF-EMT may perform service for credit toward a length of service award to more than one volunteer fire department, volunteer fire company or entity authorized to provide volunteer emergency medical services.

(b) A VFF-EMT may have only one account for each volunteer fire department, volunteer fire company or entity authorized to provide volunteer emergency medical services to which the VFF-EMT provides service.

1.05 Contributions to a program. (1) **MUNICIPAL CONTRIBUTIONS.** A participating municipality shall determine the amount it will contribute on behalf of each eligible VFF-EMT it sponsors under a program. A participating municipality shall cause an account to be opened with the program administrator for each sponsored VFF-EMT. A participating municipality's contributions shall be paid at least annually to the program administrator or designee.

(2) **MATCHING CONTRIBUTIONS.** (a) On a calendar year basis, the board shall match a participating municipality's annual contributions made on behalf of its VFF-EMT participants during that calendar year up to a maximum of \$250 per eligible VFF-EMT, subject to any annual adjustment under sub. (3). The board shall pay all amounts matched under this section directly to the program administrator or designee, up to a maximum of \$2,000,000 in a fiscal year.

(b) Subject to the time period for a protest or appeal under s. VFF-EMT 1. 17, a participating municipality shall pay all contributions for a calendar year to the program administrator or designee on or before January 31 of the following year in order to receive a matching contribution from the board.

(c) The board shall not match contributions made by a participating municipality for prior service.

(3) **ANNUAL ADJUSTMENT.** Annually on July 1, the board shall make any adjustments necessary to the matched funds to be paid in the subsequent calendar year to reflect changes in U.S. consumer price index for all urban consumers, using the method set forth in section 16.25 (3)(d), Stats.

1.06 Contributions for prior service. (1)(a) A participating municipality may make contributions for prior service provided that the VFF-EMT has performed at least five years of service to that municipality, which may include a combination of prior service and service performed after the municipality began participating in a program. The number of years of prior service for which the participating municipality may contribute shall not exceed the number of years of total service provided by the VFF-EMT to that municipality. A participating municipality may impose additional eligibility requirements for accepting prior service.

(b) Subject to applicable internal revenue code restrictions as determined by the program administrator, the minimum contribution payable by a participating municipality for each year of prior service credited to a VFF-EMT shall be \$100. A participating municipality may pay a different amount for credited prior service than the amount paid for credited service performed after the municipality began participating in a program.

(c) Subject to applicable internal revenue code restrictions as determined by the program administrator, a participating municipality that makes contributions for prior service may pay those contributions over a number of years not to exceed 20, and may include interest in such payments to reflect the fact that they are being added for prior service over a number of years in lieu of a lump sum payment.

(d) For purposes of determining the board's matching contribution under s. VFF-EMT 1.05 (2), any contributions made by a participating municipality for prior service must be accounted for separately from contributions for credited service performed after the municipality began participating in a program.

(e) If a participating municipality ceases to exist or ceases its participation in a program, it shall pay the balance owed on any account for contributions made for prior service no later than under the schedule of payments required under its agreement with the program administrator.

(2) If a municipality's records are insufficient to establish eligibility for the purchase of prior service for a VFF-EMT, the municipality shall conduct a thorough investigation and, using the standards for determining the service required to qualify for annual contributions under s. VFF-EMT 1.04(3), shall make a decision based upon good faith belief and the best information available as to the prior service claimed.

1.07 Vesting and Receipt of Length of Service Award. (1) **VESTING.** A VFF-EMT is required to provide 10 years of credited service before the VFF-EMT may receive any benefits under the program. A VFF-EMT that has provided 20 years of credited service to a participating municipality shall be fully vested and paid a length of service award upon reaching age 60.

- (2) **FULLY VESTED.** (a) Upon receiving payment of a length of service award, a fully vested VFF-EMT age 60 or older may continue to provide credited service toward a length of service award under a new account, but shall be paid any subsequent contributions made on the VFF-EMT's behalf by the participating municipality or the board immediately after they are received by the program administrator or designee.
- (b) A fully vested VFF-EMT age 60 or older shall notify the program administrator and the participating municipality of the VFF-EMT's request to receive their length of service award within the time period required by the program administrator or the applicable program.
- (3) **PARTIALLY VESTED.** (a) Upon reaching age 60, a VFF-EMT may request and receive their length of service award at any time after performing a minimum of 10 years of credited service and discontinue providing eligible service.
- (b) Upon reaching the age of 60, a VFF-EMT requesting to receive their length of service award after performing 10 years, but less than 20, of credited service shall receive 50% of the net asset value of their account at the time of the request for the first 10 years of creditable service provided. For each year of credited service more than 10, but less than 20, performed by the VFF-EMT, five percent of the net asset value of the account at the date of the request shall be added. The amounts not paid to a VFF-EMT under this section shall be forfeited and equally distributed among all other open VFF-EMT accounts sponsored by that municipality at the time of the forfeiture.
- (c) A VFF-EMT that has reached age 60 but is not fully vested may continue to perform service for credit toward a length of service award.
- (4) **NEW ACCOUNTS.** At any time a VFF-EMT receives a length of service award associated with an account, they may discontinue providing eligible service and accruing service credit under that account, and begin providing eligible service under a new account.
- (5) **PRIOR SERVICE CREDIT.** For vesting purposes under this section and s. 16.25, Stats., credit for service performed by a VFF-EMT may include prior service credited under s. VFF-EMT 1.06.
- (6) **FORM OF BENEFIT DISTRIBUTION.** A VFF-EMT may receive their length of service award payment either in a lump sum or by any other method offered by the program administrator and approved by the board. The form of benefit distribution shall be determined by the program administrator and approved by the board. The chosen form shall be stated in the specific plan documents provided by the program administrator.
- (7) **SIMULTANEOUS SERVICE.** For purposes of determining vesting under this section and s.16.25, Stats., in the event that a VFF-EMT simultaneously renders service to two or more separate and distinct municipalities, no more than one year of service may be credited toward any length of service award in any calendar year the VFF-EMT provided multiple service.
- 1.08 Forfeiture and leaves of absence.** (1) **NON-VESTED FORFEITURE.**(a) A VFF-EMT that has performed less than 10 years of service under a program shall forfeit any accumulated years of service if they cease to perform creditable service for more than six months in any calendar year, unless a supervisor has granted the VFF-EMT a leave of absence for that period.
- (b) A participating municipality may determine the conditions under which a leave of absence shall be granted. A participating municipality shall grant a leave of absence in writing on or before December 31 of the calendar year in which it is to take effect.
- (2) **LEAVE OF ABSENCE.** A forfeited account shall be equally distributed among all other open VFF-EMT accounts sponsored by that municipality at the time of the forfeiture. Forfeitures may not be distributed to an account frozen under s. VFF-EMT 1.09(1).
- (3) **NOTICE UPON TRANSFER OF SERVICE.** For vesting purposes under s. VFF-EMT 1.07, upon joining or exiting a program, a VFF-EMT must notify the new program administrator and any previous program administrator before forfeiture is to occur in order to qualify for transfer of their credited service years.
- 1.09 Transfer of service to a different program administrator.** (1) **FROZEN ACCOUNTS.** When a VFF-EMT ceases performing service for one participating municipality and begins performing service for another that utilizes a different program administrator, their account shall be frozen. No contributions or forfeiture distributions may be made to a frozen account, but a frozen account shall continue to accrue earnings.
- (2) **SERVICE TRANSFER.** Any service credited to a VFF-EMT associated with a frozen account shall count toward vesting under s. VFF-EMT 1.07, provided the VFF-EMT meets the notice requirements of this section, and either of the following occurs:
- (a) If the VFF-EMT has accumulated less than 10 years of service, the participating municipality, for which the service was provided and the account opened, has granted the VFF-EMT a leave of absence.
- (b) The VFF-EMT begins performing creditable service for a subsequent participating municipality within 6 months of ceasing to perform creditable service for VFF-EMT's former participating municipality.

(3) VFF-EMT NOTICE. (a) A VFF-EMT shall provide a copy of the leave of absence granted under s. VFF-EMT 1.08(1)(b) to the current participating municipality's program administrator within 6 months of beginning their new service.

(b) A VFF-EMT wishing to transfer service under this section shall provide the current program administrator with the most recent annual statement of service issued under par. VFF-EMT 1.11(2) by their former participating municipality.

(c) In order to receive payment of a length of service award under section s. VFF-EMT 1.07 from a frozen account, a VFF-EMT shall notify their former program administrator of any service credited by a subsequent program administrator.

(4) PROGRAM ADMINISTRATOR NOTICE. (a) A program administrator shall accept a statement of service provided by a VFF-EMT under this section, and record the number of whole years stated and the associated account identifier on the new account opened for the VFF-EMT.

(b) For purposes of vesting and payment of a length of service award under s. VFF-EMT 1.07, a program administrator shall accept all service credited to a VFF-EMT by any subsequent program administrator, provided it has received notice from the VFF-EMT as required by s. VFF-EMT 1.09(3)(c).

1.10 Disability and death benefits. (1) **DISABILITY.** If a VFF-EMT becomes permanently disabled as determined by the Wisconsin worker's compensation program under ch. 102 Stats., while actively on duty performing service, the VFF-EMT may immediately apply to the program administrator for payment of the net asset value of each of the disabled VFF-EMT participant's accounts. Upon request, the program administrator shall make payment as soon as administratively possible.

(2) **DEATH.** If a VFF-EMT dies while actively on the rolls of a volunteer fire department, volunteer fire company, or an emergency medical service that provides services to a participating municipality under a program, the VFF-EMT's designated beneficiary shall be paid an amount equal to the net asset value of each account designating that beneficiary. Upon request, the program administrator shall make payment as soon as administratively possible.

1.11 Records and certification of service. (1) Each participating municipality shall maintain and submit to the program administrator as required under a program, detailed and accurate records of every VFF-EMT providing fire fighting or emergency medical services to that municipality

(2) Annually, on or before January 31, a participating municipality shall submit under oath a statement of service to the program administrator listing all VFF-EMT members that have performed service for that municipality for the preceding calendar year, and post the statement of service in a conspicuous place on site for a minimum of 30 days thereafter.

1.12 Program administrator qualifications. (1) Based upon a request for proposal process, the board shall contract with a program administrator to offer a length of service award program that is approved and officially supported by the board. The program administrator awarded the contract shall have all of the following:

(a) At least 5 years experience administering a length of service award program as described in internal revenue code section 457, or a deferred compensation program as provided for therein. The program administrator's experience shall include administering at least one program that has a participation level of 1,000 or more individual members, multiple participating jurisdictions, and consolidated record keeping for all investment products offered.

(b) Marketing and enrollment services that include the following:

1. At least annual contacts to each participating municipality and VFF-EMT describing the program and the investment products offered by the program administrator.

2. Presentations to all participating municipalities and VFF-EMT participants that include full disclosure of all direct and indirect fees and costs of the program as well as advantages and disadvantages of participating investment options offered by the program administrator.

3. Literature and forms regarding the program and the investment products offered by the program administrator to be distributed to all participating municipalities and VFF-EMT participants that are in a format approved by the board.

(c) Services that provide unlimited opportunities to increase or decrease contributions and to redirect contributions to other investment options offered by the program administrator.

(d) Accounting procedures and consolidated record keeping for account transactions that maintain all participating municipalities' and VFF-EMT participants' records and submits deposits, transfers and withdrawals to the investment companies offering investment products under the program.

(e) Membership in good standing by the administrator or the manager of any investment products offered in an organization customary in the program administrator's or investment manager's industry that provides protection against loss.

(f) No litigation risks or involvement in pending regulatory action deemed by the board or the department to be material to the continued operations of the administrator.

(2) The board may consider the financial strength of a program administrator or an entity affiliated with the program administrator for purposes of operating a program, on the basis of its net worth and the ratio of net worth to present or projected assets under management.

1.13 Program administration. (1) A program administrator awarded a contract to provide a length of service award program shall sign a contract with the board in which the program administrator agrees to do all of the following:

(a) Comply with all statutes, rules and regulations governing the program and share pertinent information, such as municipal contributions and state matching funds, with the board and any other program administrator under contract with the board to ensure compliance with the state and federal law and regulations.

(b) Obtain pre-approval by the board of the mandatory disclosures to participating municipalities set forth in s. VFF-EMT 1.12(1)(b)(1).

(c) At least annually, provide full disclosure to the board of all fees and commissions earned directly or indirectly on operations of the program by the program administrator, and other financial information relative to a VFF-EMT account maintained by a program administrator, including municipal and state contributions, forfeitures, and disbursements.

(d) Provide, at the administrator's expense, an annual independently audited financial statement of the affiliated entity providing the investment or insurance plan to a participating municipality under the program to the board within 120 days following the end of each calendar year.

(e) Submit to the board an acceptable contingency plan to address both data processing systems failures and administrative service interruptions.

(f) Upon request, provide a copy of the fund prospectus and annual report for each investment product offered by the program administrator to participating municipalities and enrolled VFF-EMT participants.

(g) Cooperate with other program administrators to provide for service credit portability between program administrators under s. VFF-EMT 1.09.

(h) At least annually, provide statements to participating municipalities and enrolled VFF-EMT participants detailing contributions made on behalf of a VFF-EMT by a participating municipality, account balance information, and disclosure of all fees, commissions and charges affecting that account's earnings or balances.

(i) Provide an annual report to all participating municipalities, VFF-EMT participants and the board illustrating the investment performance of all investment products offered.

(j) Cooperate with any successor program administrator, including extending the term of the contract for a reasonable period of time as may be necessary, to ensure a smooth transition of program administrators.

(k) Provide opinions of tax counsel or other legal counsel as necessary.

(2) The program administrator, its agents, and the investment products offered, shall meet all applicable state and federal laws, rules and regulations including the internal revenue code, security and exchange commission regulations, and state and federal insurance laws and regulations.

1.14 Participating municipality obligations. (1) In fulfillment of its responsibility as a fiduciary of the program, a participating municipality is responsible to review information provided by the program administrator including the mandatory disclosures described in s. VFF-EMT 1.12 (1) (b) (1).

(2) A participating municipality shall sign a contract with the program administrator for program services provided under s.16.25, Stats., and ch. VFF-EMT 1.

(3) A participating municipality shall sign a memorandum of understanding with the program administrator prior to selecting any investment product offered stating that all requirements and regulations pertinent to that product have been clearly explained by that program administrator and that the participating municipality has received an explanation by the program administrator or its representatives of the mandatory disclosures described in s. VFF-EMT 1.12 (1) (b) (1).

1.15 Program amendment. A participating municipality may amend a program in compliance with all applicable statutes and rules, and the requirements of the program administrator and the board.

1.16 Program termination. A participating municipality may terminate a program by adopting and filing a resolution to that effect with the board. The board shall promptly submit a copy of such resolution to the program administrator. A termination must comply with all applicable statutes and rules, and the requirements of the program administrator and the board. All accounts of VFF-EMT participants in a terminated program shall be treated in the same manner as accounts in a program in which the sponsoring participating municipality ceased to exist as set forth in s. VFF-EMT 1.06 (1) (e).

1.17 Appeals. (1) **PROTEST TO MUNICIPALITY.** A VFF-EMT may protest an issue of service credit in writing to the sponsoring participating municipality. The participating municipality shall review the documentation and other submissions and make a determination within 30 days. The participating municipality may consult with the program administrator as required. The protest determination shall be in writing and returned to the protesting party. Upon request, the board in its discretion may review a participating municipality's decision.

(2) **APPEAL TO THE BOARD.** An individual who has a substantial interest affected by a board decision may appeal in writing to the board. The board shall review the documentation and other submissions and make a determination within

90 days. The appeal decision shall be in writing and returned to the appealing party. All decisions of the board shall be final.